

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO.: 1:18CR708
)	
Plaintiff,)	JUDGE CHRISTOPHER A. BOYKO
)	
v.)	
)	
KENNETH TYSON,)	<u>GOVERNMENT'S RESPONSE IN</u>
)	<u>OPPOSITION TO DEFENDANT'S</u>
Defendant.)	<u>MOTION FOR LEAVE TO FILE A BILL</u>
)	<u>OF PARTICULARS</u>

The United States of America, by and through its counsel, Justin E. Herdman, United States Attorney for the Northern District of Ohio, and Carmen E. Henderson and Chelsea S. Rice, Assistant United States Attorneys, respectfully submit this response in opposition to Defendant's motion for leave to file a motion for a bill of particulars (Doc. #72). For the reasons set forth below, the Court should deny Defendant's motion in its entirety.

Defendant was indicted over a year ago, on November 21, 2018. On February 1, 2019, prior to the Protective Order being entered, Defendant received his first discovery production. This production included Defendant's statements and financial records. After the Protective Order was entered, on February 12, 2019, the government provided Defendant with additional discovery materials consisting of bank records, business records relating to several entities, and AT&T phone records. On February 14, 2019, after the search warrant was partially unsealed, the government provided Defendant with the search warrant, application, and affidavit. On February 20, 2019, after receiving a flash drive from Defendant's counsel, the government provided

Defendant with additional discovery, consisting of electronic communications. On or about April 11, 2019, the government provided Defendant with the AT&T phone records in their entirety, as Defendant requested. On June 4, 2019, the government provided Defendant with a flash drive of additional emails. On June 14, 2019, as requested, the government provided additional bank records pertaining to additional individuals and entities. Recognizing its supplemental discovery obligations, the government also provided the point of sale inspection for Defendant's home. On or about September 17, 2019, in recognition of its ongoing discovery obligations, the government provided Defendant's counsel with additional documents from the Land Bank that did not relate to Defendant, but did relate to other contractors, processes, and OFHA funding at the Land Bank.

As set forth above, Defendant received the bulk of the discovery in this case by February 20, 2019, more than nine months ago, and all discovery relevant to the indicted matter by Jun 14, 2019, more than five months ago. While the government provided additional discovery on September 17, 2019, those materials did not relate to the charged conduct.

In addition to having over a year to review the indictment and over five months to review all discovery related to this matter, Defendant has also made numerous discovery requests and filed numerous motions in this matter. Defendant is well past the fourteen day period to file a motion for a bill of particulars and has had ample time¹ in the last year to seek leave to file such a motion. At this point, over a year after indictment, Defendant is well aware of the charges against him. Defendant's motion for a bill of particulars, similar to his continued discovery

¹ The government recognizes that Defense counsel was temporarily unable to work on this matter due to the conflict inquiry. Nevertheless, not counting the two months defense counsel represents that he did not work on this matter, Defendant still had over ten months since indictment to file a motion for a bill of particulars. (*See*, Doc. #52, PageID 474).

requests, seeks only to obtain early disclosure of witness statements and potential impeachment information before trial, materials to which he is not entitled to at this time and which is not the purpose of a motion for a bill of particulars. Thus, Defendant's motion for leave should be denied.²

Respectfully submitted,

JUSTIN E. HERDMAN
United States Attorney

By: /s/ Carmen E. Henderson
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² Should this Court grant Defendant's Motion for Leave to File a Bill of Particulars, the government will submit a substantive response to the actual Motion for a Bill of Particulars at that time.

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of November 2019 a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's system.

/s/ Carmen E. Henderson
Carmen E. Henderson
Assistant U.S. Attorney